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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/531,930 | 04/19/2005 | Jiska Margriet De Wit | NL 021085 | 5659 |
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| PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510 | | | EXAMINER NGUYEN, TUAN HOANG | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/531,930

Applicant(s)

DE WIT ET AL.

Examiner

Tuan H. Nguyen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 13-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed on 10/02/2007 with respect to claims 1-22 have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

2. Claim 22 objected to because of the following informalities: the preamble "a computer readable... comprising instructions for for:" had duplicated the word "for". Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-6, 9-11, 13-16 and 18-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frank Robert et al. (International Publication Number: WO 99/25107

hereinafter, "Frank") in view of Futamase et al. (U.S PAT. 6,911,592 hereinafter, "Futamase").

Consider claim 1, Frank teaches a consumer electronic device, comprising: an output means able to generate a human perceptual signal (page 3 lines 21-30 and page 6 lines 15-24); a transmitter able to transmit a human non-perceptual signal (page 4 lines 5-15 and page 5 lines 17-20); and a control unit able to control the output means, able to create a representation of the human perceptual signal (page 4 lines 22-28), and able to instruct the transmitter to broadcast a human non-perceptual signal comprising the representation (page 5 lines 1-4 and page 6 line 33 through page 7 line 4).

Frank does not explicitly show that the control unit is configured to instruct the output means to make a received human perceptual signal more noticeable if it is received from a nearby further electronic device and less noticeable if it is received from a remote further electronic device.

In the same field of endeavor, Futamase teaches the control unit is configured to instruct the output means to make a received human perceptual signal more noticeable if it is received from a nearby further electronic device and less noticeable if it is received from a remote further electronic device (col. 4 lines 43-58, col. 5 lines 39-56, and col. 10 lines 42-58).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use, the control unit is configured to instruct the output means to make a received human perceptual signal more noticeable if it is received

from a nearby further electronic device and less noticeable if it is received from a remote further electronic device, as taught by Futamase, in order to provide a sounding control apparatus that facilitates the setting, editing, and creating of music tone information such as timbre and effect for producing a melody sound at call termination or background music (BGM) during talking by sounding two or more tones at a time by use of an FM tone generator for example in a portable terminal device.

Consider claim 2, Frank further teaches the output means comprises at least one of a speaker and a headphone (page 6 lines 7-9).

Consider claim 3, Frank further teaches the output means comprises a display (page 2 lines 22-29).

Consider claim 4, Frank further teaches the control unit is able to instruct the transmitter to transmit a human non-perceptual signal comprising an identifier identifying the human perceptual signal (page 5 lines 1-4 and page 6 line 33 through page 7 line 4).

Consider claim 5, Frank further teaches a receiver able to receive a further human non-perceptual signal, the control unit is able to use the receiver to detect a free time-slot in a transmission medium, and the control unit is able to instruct the transmitter

to transmit the human non-perceptual signal in the free time-slot (page 4 lines 5-21).

Consider claim 6, Frank further teaches a receiver able to receive a further human non-perceptual signal, the control unit is able to use the receiver to receive a control signal, and the control unit is able to schedule own transmissions in accordance with the control signal (page 2 lines 11-17 and page 6 line 33 through page 7 line 4).

Consider claim 9, Frank teaches an electronic device, comprising: an output means for generating a human perceptual signal (page 3 lines 21-30 and page 6 lines 15-24); a receiver able to receive a human non-perceptual signal (page 2 lines 11-17); and a control unit configured to use the receiver to receive multiple human non-perceptual signals comprising representations of multiple further human perceptual signals (page 4 lines 22-28) and able to instruct the output means to generate the human perceptual signal from the representations (page 5 lines 1-4 and page 6 line 33 through page 7 line 4).

Frank does not explicitly show that the control unit is further configured to instruct the output means to make a received human perceptual signal more noticeable if it is received from a nearby further electronic device and less noticeable if it is received from a remote further electronic device.

In the same field of endeavor, Futamase teaches the control unit is further configured to instruct the output means to make a received human perceptual signal more noticeable if it is received from a nearby further electronic device and less

noticeable if it is received from a remote further electronic device (col. 4 lines 43-58, col. 5 lines 39-56, and col. 10 lines 42-58).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use, the control unit is further configured to instruct the output means to make a received human perceptual signal more noticeable if it is received from a nearby further electronic device and less noticeable if it is received from a remote further electronic device, as taught by Futamase, in order to provide a sounding control apparatus that facilitates the setting, editing, and creating of music tone information such as timbre and effect for producing a melody sound at call termination or background music (BGM) during talking by sounding two or more tones at a time by use of an FM tone generator for example in a portable terminal device.

Consider claim 10, Frank further teaches an input means for enabling a user to select at least one of the representations and the control unit is able to instruct the output means to generate the human perceptual signal from the at least one of the representations (page 5 lines 1-4 and page 6 line 33 through page 7 line 4).

Consider claim 11, Frank further teaches a communication means for establishing communication between users and the control unit is able to use the communication means to establish communication between a user of the electronic device and a user of a similar electronic device having transmitted a human non-perceptual signal comprising the at least one representation (page 10 lines 11-14 and

page 6 line 33 through page 7 line 4).

Consider claim 13, Frank further teaches the control unit is able to use the receiver to receive multiple human non-perceptual signals comprising representations of acoustic signals (page 4 lines 5-21).

Consider claim 14, Frank further teaches the control unit is able to use the receiver to receive multiple human non-perceptual signals comprising representations of visual signals (page 2 lines 11-18).

Consider claim 15, Frank further teaches the control unit is able to use the receiver to receive a human non-perceptual signal comprising an identifier identifying a further human perceptual signal and able to instruct a display to display the identifier (page 7 lines 12-26).

Consider claim 16, Frank further teaches the control unit is able to use a storage means to store at least one of: an identifier identifying a further human perceptual signal and at least a part of the representation of the further human perceptual signal (page 7 lines 28-34).

Consider claim 18, Frank further teaches the control unit is able to use the receiver to receive a human non-perceptual signal comprising an identifier identifying a

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further human perceptual signal (page 7 lines 12-36); further comprised is an input means for enabling a user to request additional information (page 3 lines 21-30); further comprised is a transmitter able to transmit a human non-perceptual signal (page 4 lines 5-15 and page 5 lines 17-20); the control unit is able to instruct the transmitter to transmit a human non-perceptual signal comprising a request for information and the identifier (page 7 lines 12-36); and the control unit is able to use the receiver to receive a human non-perceptual signal comprising additional information (page 3 lines 21-30).

Consider claim 19, Frank teaches method of making content available, comprising the acts of: creating a representation of a human perceptual signal generated by a first electronic device (page 3 lines 21-30 and page 6 lines 15-24).

Frank does not explicitly show that broadcasting the representation for playback of the human perceptual signal by a second electronic device as more noticeable if the second electronic device is near the first consumer electronic device and less noticeable if second electronic device is remote from the first electronic device.

In the same field of endeavor, Futamase teaches broadcasting the representation for playback of the human perceptual signal by a second electronic device as more noticeable if the second electronic device is near the first consumer electronic device and less noticeable if second electronic device is remote from the first electronic device (col. 4 lines 43-58, col. 5 lines 39-56, and col. 10 lines 42-58).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use, broadcasting the representation for playback of the

human perceptual signal by a second electronic device as more noticeable if the second electronic device is near the first consumer electronic device and less noticeable if second electronic device is remote from the first electronic device, as taught by Futamase, in order to provide a sounding control apparatus that facilitates the setting, editing, and creating of music tone information such as timbre and effect for producing a melody sound at call termination or background music (BGM) during talking by sounding two or more tones at a time by use of an FM tone generator for example in a portable terminal device.

Consider claim 20, Frank teaches a method of accessing new content, comprising the acts of: receiving representations of human perceptual signals (page 4 lines 5-21); and generating a human perceptual signal from the representations (page 5 lines 1-4 and page 6 line 33 through page 7 line 4).

Frank does not explicitly show that the generated human perceptual signal is more noticeable if it is received from a nearby further electronic device and less noticeable if it is received from a remote further electronic device.

In the same field of endeavor, Futamase teaches the generated human perceptual signal is more noticeable if it is received from a nearby further electronic device and less noticeable if it is received from a remote further electronic device (col. 4 lines 43-58, col. 5 lines 39-56, and col. 10 lines 42-58).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use, the generated human perceptual signal is more

noticeable if it is received from a nearby further electronic device and less noticeable if it is received from a remote further electronic device, as taught by Futamase, in order to provide a sounding control apparatus that facilitates the setting, editing, and creating of music tone information such as timbre and effect for producing a melody sound at call termination or background music (BGM) during talking by sounding two or more tones at a time by use of an FM tone generator for example in a portable terminal device.

Consider claim 21, Frank teaches system for sharing human perceptual signals, comprising: a component able to create and broadcast a first representation of a first human perceptual signal (page 4 lines 22-28); a component able to create and broadcast a second representation of a second human perceptual signal (page 5 lines 17-20); and a component able to receive the first and the second representation and able to generate a third human perceptual signal from the first and the second representation (page 6 line 33 through page 7 line 10).

Frank does not explicitly show that the third human perceptual signal is more noticeable if it is received from a nearby further electronic device and less noticeable if it is received from a remote further electronic device.

In the same field of endeavor, Futamase teaches the third human perceptual signal is more noticeable if it is received from a nearby further electronic device and less noticeable if it is received from a remote further electronic device (col. 4 lines 43-58, col. 5 lines 39-56, and col. 10 lines 42-58).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use, the third human perceptual signal is more noticeable if it is received from a nearby further electronic device and less noticeable if it is received from a remote further electronic device, as taught by Futamase, in order to provide a sounding control apparatus that facilitates the setting, editing, and creating of music tone information such as timbre and effect for producing a melody sound at call termination or background music (BGM) during talking by sounding two or more tones at a time by use of an FM tone generator for example in a portable terminal device.

Consider claim 22, Frank teaches a computer readable medium embodying a computer program comprising instructions for: receiving representations of human perceptual signals (page 4 lines 5-21); and generating a human perceptual signal from the representations (page 6 line 33 through page 7 line 10).

Frank does not explicitly show that the generated human perceptual signal is more noticeable if it is received from a nearby electronic device and less noticeable if it is received from a remote electronic device.

In the same field of endeavor, Futamase teaches the generated human perceptual signal is more noticeable if it is received from a nearby electronic device and less noticeable if it is received from a remote electronic device (col. 4 lines 43-58, col. 5 lines 39-56, and col. 10 lines 42-58).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use, the generated human perceptual signal is more

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noticeable if it is received from a nearby electronic device and less noticeable if it is received from a remote electronic device, as taught by Futamase, in order to provide a sounding control apparatus that facilitates the setting, editing, and creating of music tone information such as timbre and effect for producing a melody sound at call termination or background music (BGM) during talking by sounding two or more tones at a time by use of an FM tone generator for example in a portable terminal device.

5. Claims 7-8 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frank in view of Futamase and further in view of Foschini et al. (U.S PUB. 2002/0136231 hereinafter, "Foschini").

Consider claim 7, Frank and Futamase, in combination, fails to teach a receiver able to receive a further human non-perceptual signal, the control unit is able to use the receiver to detect a level of occupation of a transmission medium, and the control unit is able to instruct the transmitter to adapt its transmission power in dependency of the level of occupation.

However, Foschini teaches a receiver able to receive a further human non-perceptual signal, the control unit is able to use the receiver to detect a level of occupation of a transmission medium, and the control unit is able to instruct the transmitter to adapt its transmission power in dependency of the level of occupation (page 3 [0034]).

Therefore, it is obvious to one of ordinary skill in the art at the time the invention was made to incorporate the disclosing of Foschini into view of Frank and Futamase, in order to provide a greater interference reduction than if multi-user detection was used on both links, while is being more practical and engendering less processing and at a lower cost than if dirty paper coding was used on both links.

Consider claim 8, Foschini further teaches characterized in that the control unit is able to instruct the transmitter to transmit a human non-perceptual signal comprising transmission power of the transmitter (page 3 [0034]).

Consider claim 17, Foschini further teaches characterized in that the receiver is able to receive a human non-perceptual signal comprising a geographical position of a further electronic device transmitting a human non-perceptual signal comprising a representation of a further human perceptual signal (page 2 [0019]).

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any response to this action should be mailed to:

Mail Stop_____ (Explanation, e.g., Amendment or After-final, etc.)

Commissioner for Patents

P.O. Box 1450

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Facsimile responses should be faxed to:

(571) 273-8300

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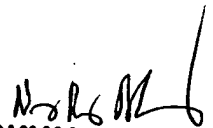
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan H. Nguyen whose telephone number is (571)272-8329. The examiner can normally be reached on 8:00Am - 5:00Pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Maung Nay A. can be reached on (571)272-788282. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information Consider the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tuan Nguyen
Examiner
Art Unit 2618


NAY MAUNG
SUPERVISORY PATENT EXAMINER